

# Just What Is an FBI Investigation?

In the aftermath of the bombing at the Boston marathon, there have been a host of reports about the FBI's investigation of the two suspects, Dzhokhar and Tamerlan Tsarnaev. When it was revealed the Bureau had interviewed Tamerlan Tsarnaev in 2011 after Russian intelligence had warned he might hold "extremist" views, questions arose anew about the Bureau's sleuthing ability.

The FBI conducts several different types of investigations, and each is governed by certain rules, as set out in guidelines issued by the U.S. Attorney General. These guidelines have been modified over the last decade to give the FBI broad latitude and authority in conducting investigations.

Even at the assessment stage, where the FBI can initiate an investigation without any indication of terrorist or criminal activity, it can gather a wide range of information. As evidence of a possible national security threat or crime accumulates, the FBI can use more and more intrusive investigative tools. The FBI does not have to start with an assessment and work its way up; if it has sufficient information, it can start at the top.

Below is an explanation of the categories and some of the features of FBI investigations.

Assessments<sup>1</sup>

### • What's required?

- Basically nothing. Just an "authorized purpose" and a "clearly defined objective." No "probable cause" or "reasonable suspicion" is required.
- Who can do it and for how long?
- Any FBI agent can conduct an assessment for 30 days without supervisory approval. After that, the agent must report to a supervisor, and the investigation can be renewed every 30 days. There is no explicit time limit, though the duration is expected to be "relatively short."
- What can they do:
- Among other things, recruit informants to monitor the subject, question people without revealing the agent's identity, search commercial and government databases, and conduct physical surveillance of a person's public movements.

Foreign Agency Request

#### • What's required?

- A request from a non-U.S. law enforcement, security or intelligence agency.
- Who can do it and for how long?
- Any FBI agent and there is no time limit.
- What can they do?
- Everything that is allowed in an assessment. If an investigator wants to go beyond these methods, a supervisor's approval is required.

Preliminary Investigation

## What's Required?

- "Information or an allegation" about a national security threat or possible criminal activity.
- Who can do it and for how long?
- Any FBI agent for six months, with supervisory approval. The investigation can be renewed for another six months by the agent-in-charge. FBI officials in Washington, D.C. must authorize additional extensions.
- What can they do?
- All the techniques used in an assessment, plus tracing phone numbers of all incoming and outgoing calls, acquiring records of Internet
  activity, obtaining records held by banks, phone companies and Internet service providers, and eavesdropping on private conversations from
  a public space through the use of high-powered microphones. Depending on the circumstances, prior approval by FBI managers may be
  required for some of these techniques.

Full Investigation

## • What's required?

- An "articulable factual basis" of a possible national security threat or criminal activity.
- Who can do it and for how long?
- Any FBI agent (likely a team) with supervisory approval. No time limit.
- What can they do?
- Everything listed below, plus judicially-approved actions such as wiretaps, opening mail, monitoring and intercepting email, covert searches of homes and offices, and attaching devices to cars to track travel.

<sup>&</sup>lt;sup>1</sup> The FBI Guidelines permit five different types of assessments. The description here focuses on the first type, which is the one most relevant to investigations of individuals.